

MINUTES

267th Meeting Contractors' Registration and Licensing Board

February 8, 2012

(A) The meeting was called to order by the Acting Chairman, Arthur Salisbury, at 12:46 PM.

(B) Approval of the agenda and order of business was accepted on a motion by Mr. David Caldwell and seconded by Mr. Paul Brunetti.

(C) The minutes of the 266th meeting were approved on a motion by Mr. Tom Furey and seconded by Mr. Robert Cardoza.

(D) Court Case Update:

February 2012 - Court Ordered Restitution/Fines:

Contactor	Claim/File	Fines	Restitution	Complainant
Authelet 4560	250	\$1,150		Soscio
Barishian 7330	500	(\$65,000 prior)		Fandozzi
Totals:	Fines	\$750	Restitution	\$1,150

TOTAL: \$1,900.00

February 2012 - Funds Received Via AG's Office:

Contactor	Claim/File	Fines	Restitution	Complainant
Smith, Kevin	7439	100	\$5,000(+2,015 prior)	Rivers
Pearson, J.	6995	\$50	Schiaroli	

Totals: Fines \$100 Restitution \$5,150.00

TOTAL: \$5,150.00

Picked Up/Surrendered on Warrants:

Warrants Issued:

Gary Morrell Reg. #19951

James Vermeersch Reg. #32516, & Reg. #34101

(E) Consideration of Cases on Appeal and Oral Argument:

1.) 12:40 PM, Claim #7612; Registration #33864; Norton vs. Santos, D & A Property and Home Improvement LLC.; exceptions filed by the Respondent.; Violation #7762 #3 and violation #8033 #1. This was a case which was continued from December 2011 because the Respondent was working on resolution to a number of cases. Both parties were notified and their counsels to attend the appeal. Correspondence was received just prior to the hearing from the Respondents attorney Jeffrey

Garabedian, stating that neither he nor his clients would attend the hearing in that the payments required were never made and his clients funds never came through. The homeowners were satisfied with the decision and did not attend. The Boards' chief investigator Mike Lanni reiterated from last months meeting his concerns on the violations issued. The Board review the case again and on a motion by William Nash and seconded by J.L.Brillion elected to modify the decision rendered by the hearing officer and increase the fines assessed on the Respondent to \$5,000 for each offense with the immediate Revocation of Registration #33864. Motion carried unanimously. Therefore the following order will be issued: Final Order

Claim #7612; Upon appeal to the full Board on February 8, 2012, the Board elected to modify the decision rendered by the Hearing Officer and increase the fines for the violations in addition to assessing fines to the contractor up to the value of the contract. Therefore: the RESPONDENT, Ann Marie Santos, D & A Property and Home Improvement LLC, Registration #33864 was found to have violated Rhode Island General Law 5-65-3(j) (hiring non-registered sub-contractors), \$5,000.00; RIGL 5-65-10(a) (11) (that the registrant breached the contract), \$5,000.00; RIGL 5-65-10(a) (12) (that the registrant performed negligent and/or improper work), \$5,000.00; RIGL 5-65-10(a) (14) (that the registrant has failed to complete a project for construction or a willful failure to comply with the terms of a contract or written warranty), \$5,000.00; RIGL 5-65-10(a) (3)(that the registrant, licensee or applicant has engaged in conduct that is

dishonest or fraudulent that the Board finds injurious to the welfare of the public), \$5,000.00; RIGL 5-65-10(a)(5)(that the registrant has knowingly assisted an unregistered person to act in violation of this chapter), for a total of \$ 25,000.00 in fines plus pursuant to RIGL 5-65-10(c)(1)(the respondent shall pay an administrative penalty of \$10,000.00) for a grand total of \$35,000.00. The RESPONDENT'S Registration #33864 is REVOKED and will not be reissued until such time as ALL outstanding ORDERS issued by the Board are fulfilled and the full Board is petitioned for reinstatement.

Additionally, the Board on a motion by Paul Brunetti and second by David Caldwell decided to increased the fines on both violations to the maximum for such offences in the amount of \$10,000 each for violation # 7762 #3 and violation # 8033 #1, with Revocation of both registrations. Motion carried unanimously. Final Order Violation #7762 #3;

Upon appeal to the full Board on February 8, 2012, the Board unanimously elected to modify the decision rendered by the Hearing Officer and increase the fines for the violations found by the hearing officer. The Rhode Island Contractor's Registration and Licensing Board, (Board) has maintained that Domenic Torres (reg.#21994) has continued to work with a suspended registration, fraudulently using the registration of his fiancée, Ann Marie Santos (reg.# 33864), in violation of Rhode Island General Law 5-65-10(h). The Board has also maintained that Ms. Santos has registered with the intent to deceive the Board and to circumvent the registration process by enabling Mr.

Torres, whose registration had been suspended to conduct business, violating 5-65-10(I). The Board, represented by Chief Investigator, Michael Lanni, presented evidence in the form of witness testimony, contract documents, cancelled checks and other exhibits to support the above as well as additional violations to its rules and regulations. Four witnesses who had filed complaints against the RESPONDENTS testified on behalf of the Board. Their names are: Leroy Bundy (Bundy), Cynthia Bolduc (Bolduc) and Walter and Sheri Norton (Norton's). Bundy and Bolduc testified that they had never met nor had any contact with Santos and that all contract negotiations took place between them and Torres. The Nortons' testified that they had met Santos, but also had negotiated directly with Torres. All stated that they believed that they were doing business with Torres and were told that Santos, whose name appears on their pre-signed contracts, was a co-owner of the business (named D&A Property and Home Improvement, LLC.). All witnesses testified that they had problems with the execution of their respective contracts which included poor workmanship, incomplete contract items, unregistered or uninsured (workers comp.) workers and no required building permits. Bundy testified that he made payment directly to Torres in the form of cash. Bolduc testified that she made payments to both D&A and Torres in the form of personal checks, which the Board submitted as evidence (all checks were dispersed to Torres). The Norton's offered copies of 21 checks that were made out directly to Torres, despite Santos' signature on the contract. Those were also submitted by the Board as evidence. The Board submitted a business

card that Bundy testified that

Torres gave to him at the start of his project. The card contains Torres' name, suspended registration number and phone number and does not represent D&A in any form. The Board submitted the application and affidavit that Santos signed upon registering D&A and made particular notice of the fact that Santos had acknowledged that she had "just started" her business on 6-9-10, shortly after Torres had received an ORDER from the Board ordering him to pay restitution, fines and noticing him that his registration would be suspended in the event of non-compliance. The registration was in fact suspended on 6-22-10. The Board noted that matter, as well as others which were presently being prosecuted by the Rhode Island Attorney Generals Office. The Board also presented Torres' "master printout" showing that Torres has a troubled history with the Board which includes 12 homeowner complaints and 2 prior suspensions and reinstatements. Santos testified that she knew nothing of Torres' suspended registration and that she started the D&A to help Torres establish a "clean slate" with the Board. She further acknowledged, upon questioning by Investigator Lanni, that she has never carried Torres as a payroll employee or insured him under workers compensation as required by law. Santos' testimony that she knew nothing of Torres' registration suspension lacks credibility. Her testimony, as well as Torres' does little to refute the evidence that was presented by the Board. The Board has met the burden of a "preponderance of evidence" required by Administrative Procedures Act guidelines in establishing that Santos violated 5-65-(18) (h).

Additionally; the Board finds that she was engaged in conduct that is dishonest or fraudulent that the Board finds injurious to the welfare of the public, in violation of 5-65-10(3). The evidence also shows that Santos has knowingly assisted an unregistered (suspended) person to act in violation of its rules and regulations in violation of 5-65-10(5). Pursuant to RIGL 5-65-10(c) (1) the RESPONDENT, Domenic Torres, shall pay an administrative penalty of \$10,000.00. Payment is due in the form of a certified check or money order within 30 days of the issuance date of this ORDER. In addition, the RESPONDENT'S Registration 21994 is REVOKED and will not be reissued until such time as All outstanding ORDERS issued by the Board are fulfilled and the full Board is petitioned for reinstatement. Final Order

Violation #8033 #1; Upon appeal to the full Board on February 8, 2012, the Board unanimously elected to modify the decision rendered by the Hearing Officer and increase the fines for the violations found by the hearing officer. The Rhode Island Contractor's Registration and Licensing Board, (Board) has maintained that Domenic Torres (reg.#21994) has continued to work with a suspended registration, fraudulently using the registration of his fiancée, Ann Marie Santos (reg.# 33864), in violation of Rhode Island General Law 5-65-10(h). The Board has also maintained that Ms. Santos has registered with the intent to deceive the Board and to circumvent the registration process by enabling Mr. Torres, whose registration had been suspended to conduct business, violating 5-65-10(l). The Board, represented by Chief Investigator, Michael Lanni, presented evidence in the form of witness testimony, contract documents, cancelled

checks and other exhibits to support the above as well as additional violations to its rules and regulations. Four witnesses who had filed complaints against the RESPONDENTS testified on behalf of the Board. Their names are: Leroy Bundy (Bundy), Cynthia Bolduc (Bolduc) and Walter and Sheri Norton (Norton's). Bundy and Bolduc testified that they had never met nor had any contact with Santos and that all contract negotiations took place between them and Torres. The Norton's testified that they had met Santos, but also had negotiated directly with Torres. All stated that they believed that they were doing business with Torres and were told that Santos, whose name appears on their pre-signed contracts, was a co-owner of the business (named D&A Property and Home Improvement, LLC.). All witnesses testified that they had problems with the execution of their respective contracts which included poor workmanship, incomplete contract items, unregistered or uninsured (workers comp.) workers and no required building permits. Bundy testified that he made payment directly to Torres in the form of cash. Bolduc testified that she made payments to both D&A and Torres in the form of personal checks, which the Board submitted as evidence (all checks were dispersed to Torres). The Norton's offered copies of 21 checks that were made out directly to Torres, despite Santos' signature on the contract. Those were also submitted by the Board as evidence. The Board submitted a business card that Bundy testified that Torres gave to him at the start of his project. The card contains Torres' name, suspended registration number and phone number and does not represent D&A in any form. The Board submitted the

application and affidavit that Santos signed upon registering D&A and made particular notice of the fact that Santos had acknowledged that she had "just started" her business on 6-9-10, shortly after Torres had received an ORDER from the Board ordering him to pay restitution, fines and noticing him that his registration would be suspended in the event of non-compliance. The registration was in fact suspended on 6-22-10. The Board noted that matter, as well as others which were presently being prosecuted by the Rhode Island Attorney Generals Office. The Board also presented Torres' "master printout" showing that Torres has a troubled history with the Board which includes 12 homeowner complaints and 2 prior suspensions and reinstatements. Santos testified that she knew nothing of Torres' suspended registration and that she started the D&A to help Torres establish a "clean slate" with the Board. She further acknowledged, upon questioning by Investigator Lanni, that she has never carried Torres as a payroll employee or insured him under workers compensation as required by law. Santos' testimony that she knew nothing of Torres' registration suspension lacks credibility. Her testimony, as well as Torres' does little to refute the evidence that was presented by the Board. The Board has met the burden of a "preponderance of evidence" required by Administrative Procedures Act guidelines in establishing that Santos violated 5-65-(18) (h). Additionally; the Board finds that she was engaged in conduct that is dishonest or fraudulent that the Board finds injurious to the welfare of the public, in violation of 5-65-10(3). The evidence also shows that Santos has knowingly assisted an unregistered (suspended) person

to act in violation of its rules and regulations in violation of 5-65-10(5). Pursuant to RIGL 5-65-10(c) (I) the RESPONDENT, Ann Marie Santos, D & A Property and Home Improvement LLC, shall pay an administrative penalty of \$10,000.00. Payment is due in the form of a certified check or money order within 30 days of the issuance date of this ORDER. In addition, the RESPONDENT'S Registration 33864 is REVOKED and will not be reissued until such time as All outstanding ORDERS issued by the Board are fulfilled and the full Board is petitioned for reinstatement.

2.) 1:00 PM, Claim #7645; Registration #27042; TK Framing LLC; Keith Correia; exceptions filed by the Homeowner Andrew and Linda Capistrone. At the request of both parties this matter was continued until next months meeting.

3.) 1:20 PM, Registration #13667, Joseph Faria, request to have Revoked registration reissued. Party failed to attend the meeting, so a motion was made by J.L. Brillion and seconded by Robert Cardozo to deny this request.

EXPUNGEMENTS:

1.) 1:40 PM, Registration #32902; James Giovagniolli's Construction Inc.; James Giovagniolli; request to expunge insurance violation #7786 #1 from record. The Respondent failed to attend, so a motion was made by J.L. Brillion and seconded by William Nash to deny this

request; motion carried unanimously.

2.) 1:45 PM, Registration #9357; Advanced Construction Co. LLC; Earnest Budlong; request to expunge the following claims: Claim #2766, 3041, 3176, 3254, 3308 and 6859. The Respondent failed to attend, so a motion was made by J.L. Brillion and seconded by Paul Brunetti to deny the request; motion carried unanimously.

(F) Report of the Executive Director and Staff:

(1) Statistics Report: 02/08/2012

Registrations:

Number of Registered Contractors	11603		
Number of Cards Surrendered	5653	Number of Cards	
Expired/Lapsed	16214	Number of Cards Invalidated	1042
Number of Cards Suspended	494		
Number of Cards Revoked	99		

Registration Actions

1/11/2012-02/08/2012

Number of New Registered Contractors	63
Number of Renewed Contractors	11540
Number of Cards Surrendered	27
Registrations Invalidated	2
Registrations Suspended	4
Registrations Revoked	3

Claims:

Administrative Appeals	4
Board Appeals	2
Address Trace	87
Awaiting Further Action	31
Court	
630	
Disposed	6311
Final Orders	46
Hearings	30
Out of State Services	12
Proposed Orders	111
Under Investigation	94
Total Claims Filed with the Board	7358
Number of New Claims Processed	24

1/11/2012-02/08/2012

Violations:

Action Against Registration	32	
Advertising	3	
Cancelled Insurance		1381
Notice of Hearing	4	
Non-Registered Contractor		
858		
TOTAL RECORDS	2297	

Number of New Violations **14**
01/11/2012-02/08/2012

Lapsed Registrations/Never Re-Newed:

January	2011
53	
February	2011
69	
March	2011
80	
April	2011
91	
May	2011

83

June

2011

93

July

2011

58

August

2011

80

September

2011

109

October

2011

84

November

2011

97

December

2011

107

January

2012

131

Month

Tickets Issued

Fines

January

0

\$00.00

February

1

\$250.00

March

1

\$550.00	
April	2
\$1,000.00	
May	3
\$800.00	
June	3
\$1,500.00	
July	5
\$2,000.00	
August	0
\$ 00.00	
September	1
\$250	
October	2
\$750	
November	5
\$2,250.00	

Commercial Roofers: 02/08/2012

Number registered	136
Number surrendered	17
Number invalidated	56
Number suspended	1
Number revoked	0
Pending approval	0

Registration Actions;

01/11/2012-02/08/2012

Number of New Registered Contractors	0
Number of Renewed Roofer Contractors	136
Number of Cards Surrendered	0
Number of Expired/Lapsed	0
Registrations Invalidated	0
Registrations Suspended	0
Registrations Revoked	0

(G) Old Business:

(1.) Review of regulations, laws and standards, established by sub-committee,

report of committees and progress. No meetings have been held yet on this matter and no further progress. Legal Counsel and the Executive Director will meet to review these standards further and then bring modifications to sub-committee for discussion when time permits. Work has been preceding with the education requirements and hopefully they will be ready soon.

(H) New Business:

(1.) Budget: Funds need to be utilized to purchase two new card machines

and to be used with the new software to be ready for picture identification

cards; this will need to take place soon if we are to implement the Home

Inspectors and Commercial Roofers Licensing requirements.

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(2.) Computer Software Program Update on Progress (DBR), CAVU; Board

has been proceeding and making progress. Projected date because of data

transfers may be later in the Spring.

(3.) Retention Schedule; Legal counsel discussed with the Board some possible

modifications to the schedule which will be given more consideration in

the near future with the changes to the rules and regulations.

(4.) The Board was advised that the position of investigator posted in mid

June has now been filled. Carlo Testa will be our new investigator and

will be starting later this month. The licensing aide position is pending

posting. These staff reductions have had an impact on the

enforcement aspect of the Boards operation which has resulted in a loss of revenue.

(5.) Legislation; Home Inspector legislation was submitted, as well as moving the well drillers to this agency.

(6.) Education: Currently we are working with the Rhode Island Builders Association in developing criteria for continuing education as well as possible classes which is almost ready for discussion with the subcommittee and ready for public hearing.

(7.) NASCLA: Meeting of Executive Board and Model Legislation Committee met in Utah, Park City and also is working on continuing education.

(8.) Request for Proposal: The Board working with the Department of Labor was included in an RFP to seek testing companies to provide the RICRLB with an avenue to test Home Inspectors and Commercial Roofers Selection was put on hold by the Department of Labor for further

review

and hopefully will get final approval in the very near future. This will be

necessary to implement the Home Inspection Program and Commercial

Roofers program.

(9) A very productive meeting was held with the Building Officials

Association which hopefully will result in better communications between

the organizations.. We hope to further discuss a method to keep both

organizations informed of on going issues; matter to be discussed further at

next month Board meeting.

(10) A copy of the Boards accounts was provided to the members.

(11) Discussion took place on this years Home Show and working with the

Building Officials Organization in staffing the booth; will be discussed

further at next months meeting.

(I) Public Comment: None

(J) Announcements: The next Board meeting is scheduled for Wednesday

March 14, 2012 at 12:30 PM Conference Room "A", 2nd Floor, One Capitol Hill, Providence, Rhode Island.

(K) Adjournment: A motion was made by Mr. J.L. Brillion and seconded by Mr.

William Geddes to adjourn at 2:02 PM.

Members Present: A. Salisbury, J. Lawrence Brillion, R. Cardoza, Paul Brunetti, T Furey, R.Caniglia, W. Nash, David Caldwell, Martin Ezeama and William Geddes.

Members Absent: E. Anderson, who resigned from the Board, Felix Carlone, E. Ladouceur, Steven Carlino and S.Gianlorenzo.

Others Present: George Whalen (Executive Director), Christy Hetherington (Attorney

**Generals Office, legal counsel), stenographer,
staff and parties for
motions and expungements.**

Respectfully Submitted,

George W. Whalen

Executive Director

Rhode Island Contractors' Registration and Licensing Board